IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.26 OF 2006
IN
COMPANY APPLICATION (L) NO.710 OF 2002
IN
COMPANY APPLICATION NO.175 OF 1995
IN
COMPANY PETITION NO.712 OF 1997

Anil Laxmichand Kona & anr. Applicant

versus

M/s.Dazzal Advertising & ors. Respondent

J.M.D'Silva for applicant.

Ms.K.V.Gautam - Dy.O.L. present.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 15th June 2006

PC :

1. Although this application seeks leave under section 446 of the Companies Act, 1956, to execute a decree for possession passed against company in winding up and the original tenant, the Official Liquidator has filed an affidavit in reply in which in paragraph no.5 following statement has been made :-

> "05. That as per the orders of this Hon'ble Court dated 5th December 2002, the Official Liquidator has sold the moveable assets lying in the said branch office premises and handed over the possession of the said moveables assets to the purchaser, M/s.Donear Industries Limited on 17th December 2002. Hence, the Official Liquidator will handover the said premises to the applicant if this Hon'ble Court directs after due inspection of the premises whether any moveable assets or Company records are lying in said premises and if so, the same will be shifted to other place by the official Liquidator. Now dealing with the parawise, I say as under :-"

2. From a reading of this affidavit and more particularly paragraph 10 it is clear that the Official Liquidator has taken actual possession of the premises on 10th September 2001 (F-1, 4th Floor, Court Chambers, 35, Marine Lines, Mumbai-20). He is still in possession of these premises.

3. In the light of the statement made on affidavit, Shri D'Silva is satisfied and does not seek leave to execute the decree against the Official Liquidator of the company in winding up.

4. The Official Liquidator through Deputy Official Liquidator makes a statement that physical possession of the suit premises would be

handed over to the applicants within a period of four weeks from today.

5. Both the applications for leave and proceedings in execution are disposed of in the light of the above undertaking. Needless to state that if the above undertaking is not adhered to, it would be open for the applicants to initiate appropriate proceedings including proceeding against the Official Liquidator under Contempt of Courts Act, 1971. In addition, the applicants are at liberty to execute the decree with Police help.

(S.C.DHARMADHIKARI, J.)